

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF IOWA
WESTERN DIVISION**

UNITED STATES OF AMERICA,

Plaintiff,

vs.

DAVID JAVIER DELEON, a/k/a
Javi,

Defendant.

No. 04-CR-4108

**ORDER REGARDING REPORT AND
RECOMMENDATION CONCERNING
GUILTY PLEA**

I. INTRODUCTION AND BACKGROUND

On October 20, 2004, a One Count Information (Docket No. 1) was returned against defendant David Javier Deleon, a/k/a Javi.

Count One of that Information charges that defendant David Javier Deleon, a/k/a Javi, between about January 1, 2001, and continuing through about January 1, 2003, in the Northern District of Iowa and elsewhere, did knowingly and unlawfully combine, conspire, confederate and agree with other persons known and unknown to the United States to distribute 500 grams or more of a mixture or substance containing a detectable amount of methamphetamine. This was in violation of Title 21, United States Code, Sections 841(a)(1), 841(b)(1)(A), and 846.

On March 17, 2005, defendant David Javier Deleon, a/k/a "Javi" appeared before United States Magistrate Judge Paul A. Zoss and entered a plea of guilty to Count One of the Information. On the same date, March 17, 2005, Judge Zoss filed a Report and Recommendation (Docket No. 23) in which he recommends that defendant David Javier Deleon's guilty plea be accepted. No objections to Judge Zoss's Report and Recommendation were filed. The Court, therefore, undertakes the necessary review of Judge Zoss's recommendation to accept defendant David Javier Deleon's plea in this case.

II. ANALYSIS

A. Standard of Review

Pursuant to statute, this Court's standard of review for a magistrate judge's Report and Recommendation is as follows:

A judge of the court shall make a de novo determination of those portions of the report or specified proposed findings or recommendations to which objection is made. A judge of the court may accept, reject, or modify, in whole or in part, the findings or recommendations made by the magistrate [judge].

28 U.S.C. § 636(b)(1). Similarly, Federal Rule of Civil Procedure 72(b) provides for review of a magistrate judge's Report and Recommendation on dispositive motions and prisoner

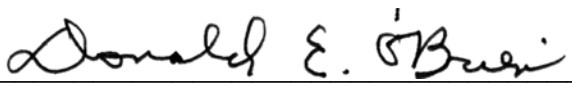
petitions, where objections are made as follows:

The district judge to whom the case is assigned shall make a de novo determination upon the record, or after additional evidence, of any portion of the magistrate judge's disposition to which specific written objection has been made in accordance with this rule. The district judge may accept, reject, or modify the recommendation decision, receive further evidence, or recommit the matter to the magistrate judge with instructions.

FED. R. CIV. P. 72(b).

In this case, no objections have been filed, and it appears to the Court upon review of Judge Zoss's findings and conclusions that there are no grounds to reject or modify them. Therefore, the Court accepts Judge Zoss's Report and Recommendation of March 17, 2005 (Docket No. 23), and accepts defendant David Javier Deleon's plea of guilty in this case to Count One of the Information filed on October 20, 2004.

IT IS SO ORDERED this 9th day of May, 2005.



Donald E. O'Brien, Senior Judge
United States District Court
Northern District of Iowa